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Order not signed by Judge Illston.  
Counsel need to arrange for an ADR conference  
with the ADR dept.

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10 Attorneys for Plaintiff



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12  
13 **UNITED STATES DISTRICT COURT**

14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15  
16 DAL BURNS, ) Case No. C07-0122 SI  
17 Plaintiff, )  
18 )  
19 vs. )  
20 UNUM LIFE INSURANCE COMPANY )  
OF AMERICA )  
21 )  
Defendant. ) (Jury Trial Demanded)  
22 )

23  
24 **PLAINTIFF'S NOTICE OF FILING  
CORRECTED STATEMENT REGARDING  
ALTERNATIVE DISPUTE RESOLUTION**

25 Plaintiff, Dal Burns ("Burns"), by and through undersigned counsel, hereby files a corrected  
statement regarding ADR to accurately state the current status of the parties' discussion with respect to  
Alternative Dispute Resolution.

1           Defendant filed a document with this Court, which is titled on the Docket as “STIPULATION  
 2 and Proposed Order selecting Early Neutral Evaluation” as the method of ADR to be employed. Plaintiff  
 3 has made it abundantly clear to Defendant that he has no interest in pursuing Early Neutral Evaluation  
 4 pursuant to ADR L.R. 5. Instead, Plaintiff expressed an interest in participating in mediation, which  
 5 request was rejected by Defendant.

7           In that the parties could not agree on an ADR process, counsel for Plaintiff asked counsel for  
 8 Defendant to sign a “Notice for Need for an ADR Phone Conference.” *See* e-mail attached hereto as  
 9 **Exhibit A.** Without hearing back from counsel for Defendant, counsel for Plaintiff then received an e-  
 10 mail Notice from the Court entitled, “STIPULATION and Proposed Order selecting Early Neutral  
 11 Evaluation,” which attached Plaintiff’s request for an ADR Phone Conference as a secondary document,  
 12 and which failed to address Plaintiff’s position regarding mediation. Both the Docket Entry and filed  
 13 Notice make it appear that Plaintiff has agreed to Early Neutral Evaluation, which is most certainly not  
 14 the case. The “Docket Text” on the Notice, as stated above, describes a “STIPULATION and Proposed  
 15 Order selecting Early Neutral Evaluation.” The first page of the document itself, to which Plaintiff’s  
 16 counsel never agreed or signed, provides that “[t]he parties agree to participate in the following ADR  
 17 process” followed by a check mark next to Early Neutral Evaluation.  
 18

20           While Plaintiff will give Defendant’s counsel the benefit of the doubt that this was merely an  
 21 oversight, Plaintiff wants to make it abundantly clear, both to the Court and opposing counsel, that it has  
 22 not and will not agree to Early Neutral Evaluation as the method of ADR to be used in this matter, and  
 23 that he further requests an ADR Phone Conference.  
 24

25           ...  
 26           ...  
 27

1 DATED this 20thday of March, 2007.  
2  
3

4 BONNETT, FAIRBOURN, FRIEDMAN  
5 & BALINT, P.C.  
6  
7

8 By: /s/ Patrick T. Stanley  
9 Edward O. Comitz  
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19 Tonna K. Farrar  
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21 San Diego, California 92101  
22 *Attorneys for Plaintiff*  
23  
24

25 ...  
26 ...  
27 ...  
28

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 20<sup>th</sup> day of March, 2007, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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*Attorneys for Defendant*

/s/ Elizabeth A. Klatt

Elizabeth A. Klatt  
Secretary for Patrick T. Stanley

**PLAINTIFF'S NOTICE OF FILING CORRECTED  
STATEMENT REGARDING ADR**